

# COMMITTEE AMENDMENT FORM

DATE: 06/12/ 07

COMMITTEE CITY UTILITIES

PAGE NUM. (S) 10

ORDINANCE I. D. #07-O-0956

SECTION (S) 8

RESOLUTION I. D. #07-R-

PARA.

AMENDS THE LEGISLATION BY DELETING SUBPARAGRAPH c 5 in its entirety.

AMENDMENT DONE BY COUNCIL STAFF 06/12/07

# COMMITTEE AMENDMENT FORM

DATE: 06/12/07

COMMITTEE ZONING

PAGE NUM. (S) 8

ORDINANCE I. D. #07-O-0956

SECTION (S) 7 (c)

RESOLUTION I. D. #07-R-

PARA.

**AMENDS THE LEGISLATION BY DELETING THE LANGUAGE IN 7 ( c ) AND REPLACING IT WITH THE FOLLOWING LANGUAGE.**

(c) *Notice.* Prior to the imposition of any restrictions under this ordinance-written notice of the restrictions or prohibitions imposed under this section due to water shortage, potential water shortage or prolonged routine maintenance interruptions shall be provided to the City Council and through the news media simultaneously. The notice shall set forth the specific nature of the restrictions or prohibitions, the reasons for the imposition of the restrictions or prohibitions, the date upon which the restrictions or prohibitions become effective, and their duration. Notice is not required for emergency diversions of water or emergency repairs; except to the City Council.

**AMENDMENT DONE BY COUNCIL STAFF 06/12/07**

**A SUBSTITUTE AND AMENDED ORDINANCE  
BY CITY UTILITIES COMMITTEE**

**07-O-0956**

**AN ORDINANCE TO REPEAL CHAPTER 154, ARTICLE III, DIVISION 1, WATER, SECTION 73 OF THE CITY OF ATLANTA CODE OF ORDINANCES; AND TO ESTABLISH COMPREHENSIVE WATER USE RESTRICTIONS, AUTHORIZE THE MAYOR OR HER DESIGNEE TO SET OUTDOOR WATER USE RESTRICTIONS BASED UPON DROUGHT RESPONSE LEVELS DECLARED BY THE DIRECTOR OF THE ENVIRONMENTAL PROTECTION DIVISION, DEPARTMENT OF NATURAL RESOURCES, STATE OF GEORGIA AND OTHER FACTORS; TO PROVIDE FOR ADDITIONAL WATER USE RESTRICTIONS DURING EMERGENCY CONDITIONS, REPAIRS AND WATER SHORTAGES, TO ESTABLISH PROVISIONS FOR ADEQUATE ENFORCEMENT OF OUTDOOR WATER USE SCHEDULES AND OTHER WATER USE RESTRICTIONS DURING EMERGENCY CONDITIONS, REPAIRS AND WATER SHORTAGES; TO AMEND, CHAPTER 154, ARTICLE II, WATER AND SEWER APPEALS BOARD; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Atlanta ("City") has an interest in maintaining the public health, safety and welfare of its residents and the City supplies drinking water to its customers; and

**WHEREAS**, the City recognizes that water is a vital resource and therefore supports the use of conservation measures to ensure the continuance of an adequate water supply for its residents and customers as well as for other jurisdictions that rely upon the same water sources as the City; and

**WHEREAS**, State of Georgia (the "State") has been experiencing abnormally dry conditions since February 2006 and metropolitan Atlanta is currently experiencing severe drought conditions that are expected to continue to intensify according to the State Climatologist's reports on May 21, 2007, and June 4, 2007; and

**WHEREAS**, drought, disasters, or other conditions, or the threat thereof, may arise from time to time creating emergency conditions which pose a threat to the provision of adequate water supply to residents and customers; and

**WHEREAS**, federal and state regulation of water supply and federal operation of reservoirs and dams that supply, control and regulate the water flow in sources relied

upon by the City further restrict the amount of water available to City residents and customers; and

**WHEREAS**, during the 1986-1988 drought, the City responded by enacting ordinances 86-O-2420 and 88-O-0917 imposing mandatory water restrictions on all customers of the City's water system;; and

**WHEREAS**, in 2000, the Environmental Protection Division, Department of Natural Resources, State of Georgia ("EPD") required all utilities in the fifteen county Metropolitan Atlanta area to implement restrictions on outdoor water usage and the City enacted Chapter 154, Article III, Division 1, Section 73 of the Atlanta City Code in ordinance 00-O-0840 establishing a process to impose water use restrictions; and

**WHEREAS**, subsequently on March 26, 2003, the Georgia Board of Natural Resources adopted the Georgia Drought Management Plan that includes pre-drought mitigation strategies and drought response strategies for regional, county and municipal governments, including among other things the recommendation that municipal water utilities "define pre-determined drought responses, with outdoor watering restrictions being at least as restrictive as the state minimum requirements"; and

**WHEREAS**, on May 26, 2004, the Georgia Board of Natural Resources promulgated Outdoor Water Use rules and regulations, Chapter 391-3-30, pursuant to the Georgia Water Quality Control Act, Title 12, Chapter 5, Article 2, establishing statewide outdoor water use schedules during drought and non-drought periods, authorizing local and regional water providers to implement additional outdoor water use restrictions within their jurisdictions, and encouraging local and regional water providers to consider placing additional water use restrictions on outdoor water use and specific commercial uses, among other things; and

**WHEREAS**, Ga. Comp. Rules and Regs. r. 391-3-30-.06 (2) conditions approval of requests by local water providers to seek alternative days for outdoor water use upon enactment of local ordinances establishing outdoor water use schedules consistent with the Georgia Rules for Outdoor Water Use; and

**WHEREAS**, on June 21, 2006, the Director of EPD declared Drought Response Level One restricting outdoor water use by allowing odd-numbered addresses to use water outdoors only on Tuesdays, Thursdays and Sundays between 12 midnight to 10 a.m. and 4 p.m. to 12 midnight and by allowing even-numbered and unnumbered addresses to use water outdoors only on Mondays, Wednesdays, and Saturdays between 12 midnight to 10 a.m. and 4 p.m. to 12 midnight; and

**WHEREAS**, on April 18, 2007, the Director of EPD declared Drought Response Level Two restricting outdoor water use by allowing odd-numbered addresses to use water outdoors only on Tuesdays, Thursdays and Sundays between 12 midnight to 10 a.m. and even-numbered and unnumbered addresses to use water outdoors only on Mondays, Wednesdays, and Saturdays between 12 midnight to 10 a.m.; and

**WHEREAS**, the best interests of the City would be served by extending state water use restriction times from 12 midnight to 10 a.m. and 4 p.m. to midnight to 12 midnight to 10 a.m. and 8 p.m. to midnight during Non-Drought and Declared Drought Response Level One; and

**WHEREAS**, the State from time to time may require the City, City residents and City water customers to adhere to certain water use restrictions and the State is relying upon local governments and water providers to enforce water use restrictions among their residents and customers; and

**WHEREAS**, the City of Atlanta's water supply may be threatened to the extent that the City may not be able to meet demand for water if dry conditions worsen and enforceable restrictions are not put in place.

**NOW, THEREFORE THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS:**

**SECTION 1:** That Section 154-73 of Chapter 154, Article III, Water, is hereby repealed.

**SECTION 2:** That a new Section 154-73 entitled Water Use Restrictions be added to read as follows:

(a) This section and all sections beginning with 154-73 shall collectively be known as the "City of Atlanta Water Use Restrictions Ordinance" and may be referred to throughout sections beginning with 154-73 as "this ordinance."

(b) City of Atlanta has the authority to adopt this ordinance pursuant to Article 9, Section 2, Paragraphs II and III of the Constitution of the State of Georgia, Chapter 35 of Title 36 and Section 31 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated, the Georgia Department of Natural Resources Rules for Outdoor Water Use, Ga. Comp. R. & Regs. Ch. 391-3-30, and Section 1-102 (c) (9) of the Atlanta City Charter (1996 Ga. L. (Act No. 1019), p. 4469).

**SECTION 3:** That a new Section 154-73.1 with the heading Purpose and Intent be added to read as follows:

(a) The purpose of this ordinance is to protect the public health, safety and welfare by adopting and enforcing water use measures that encourage water conservation and ensure adequate supplies of water for the residents and water customers of the City.

(b) It is the policy of the City to promote water conservation by regulating outdoor water use, by complying with the laws and regulations imposed by the State of Georgia on outdoor water use; and by restricting water usage during emergency conditions.

**SECTION 4:** That a new section 154-73.2 entitled Definitions be added to read as follows:

When used in this ordinance:

- (a) "Address" means the "house number" (a numeric or alphanumeric designation) that, together with the street name, describes a physical location of a specific property.
  - (1) "Even numbered address" means a house number ending with the number 0, 2, 4, 6, 8, or no house number.
  - (2) "Odd numbered address" means a house number ending with the number 1, 3, 5, 7, or 9.
- (b) "Commissioner" means the commissioner of the department of watershed management or his/her designee who is vested with the authority and responsibility for the implementation of an effective outdoor water use program and for the enforcement of the provisions of this ordinance.
- (c) "Declared drought response level" means one of four levels of drought that can be declared by the environmental protection division based on the severity of drought conditions, with one being the least severe and four being the most severe.
- (d) "Director" means the director of the Environmental Protection Division as defined in this ordinance.
- (e) "Environmental Protection Division ("EPD" or "Division")" means an organizational unit of the State of Georgia Department of Natural Resources ("DNR"), which has responsibility for administration of the State of Georgia's Rules for Outdoor Water Use (Ga. Comp. R. & Regs. Chapter 391-3-30) promulgated by the State of Georgia Board of Natural Resources.

**SECTION 5:** That a new section 154-73.3 entitled Outdoor water use schedule during non-drought periods and declared drought response levels be added to read as follows:

Pre-determined water use restrictions at least as restrictive as the following are hereby imposed:

- (a) When there are no declared drought conditions or when the Director makes drought declarations as authorized by state law and rules, outdoor water use other than activities exempted by this ordinance, shall occur only during scheduled hours on the scheduled days as described in this section.
- (b) When there are no declared drought conditions or when the Director has declared Drought Response Level One, outdoor water use may occur on scheduled days within the hours of 12:00 midnight to 10:00 a.m. and 8:00 p.m. to 12:00 midnight.

(1) Scheduled days for odd-numbered addresses are Tuesdays, Thursdays and Sundays.

(2) Scheduled days for even-numbered addresses are Mondays, Wednesdays and Saturdays.

(3) Use of hydrants for any purpose other than firefighting, public health, safety or flushing is prohibited.

(c) When the Director has declared Drought Response Level Two, outdoor water use may occur on scheduled days within the hours of 12:00 midnight to 10:00 a.m.

(1) Scheduled days for odd-numbered addresses are Tuesdays, Thursdays and Sundays.

(2) Scheduled days for even-numbered addresses and golf course fairways are Mondays, Wednesdays and Saturdays.

(3) The following uses are prohibited:

a. Using hydrants for any purpose other than firefighting, public health, safety or flushing.

b. Washing hard surfaces, such as streets, gutters, sidewalks and driveways except when necessary for public health and safety.

(d) When the Director has declared Drought Response Level Three, outdoor water use may occur on the scheduled day within the hours of 12:00 midnight to 10:00 a.m.

(1) The scheduled day for odd-numbered addresses is Sunday.

(2) The scheduled day for even-numbered addresses and golf course fairways is Saturday.

(3) The following uses are prohibited:

a. Using hydrants for any purpose other than firefighting, public health, safety or flushing.

b. Washing hard surfaces, such as streets, gutters, sidewalks, driveways, except when necessary for public health and safety.

c. Filling installed swimming pools except when necessary for health care or structural integrity.

- d. Washing vehicles, such as cars, boats, trailers, motorbikes, airplanes, golf carts.
- e. Washing buildings or structures except for immediate fire protection.
- f. Non-commercial fund-raisers, such as car washes.
- g. Using water for ornamental purposes, such as fountains, reflecting pools, and waterfalls except when necessary to support aquatic life.

(e) When the Director has declared drought response level four, no outdoor water use is allowed, other than for activities exempted in this ordinance, or as the Director may order.

(f) The Commissioner of the Department of Watershed Management may modify or cancel water restrictions and schedules or add additional restrictions for any and all water users from time to time as drought or other emergency conditions affecting the water system including but not limited to emergency repairs, water shortages or potential water shortages may worsen or abate. Modifications to water restriction schedules may include but are not limited to restricting public parks and recreational facilities to the scheduled days of Monday and Friday during the hours of 12 midnight to 10 a.m, during Declared Drought Response Level Three.

**SECTION 6:** That a new section 154-73.4 entitled Exemptions be added to read as follows:

This ordinance shall not apply to the following outdoor water uses:

(a) Capture and re-use of cooling system condensate or storm water in compliance with applicable local ordinances.

(b) Re-use of gray water in compliance with applicable local ordinances.

(c) The following established landscape water uses are exempt from the outdoor water use schedules of this ordinance:

(1) Use of reclaimed wastewater by a designated user from a system permitted by the Director to provide reclaimed wastewater.

(2) Irrigation of personal food gardens.

(3) Newly (in place less than thirty days) installed landscapes are subject to the following:

a. Irrigation of newly installed landscapes is allowed any day of the week, but only during allowed hours for the drought response level in effect, for a



period of 30 days following installation. No watering is allowed during Drought Response Level Four.

b. For new landscapes installed by certified or licensed professionals, commercial exemptions apply.

(4) The following golf course outdoor water uses are exempt from the outdoor water use schedules of this ordinance:

a. Use of reclaimed wastewater by a designated user from a system permitted by EPD to provide reclaimed wastewater.

b. Irrigation of fairways during times of non-drought and declared drought response level one.

c. Irrigation of tees during times of non-drought and declared drought response levels one, two and three.

d. Irrigation of greens.

(5) The following commercial outdoor water uses are exempt from the outdoor water use schedules of this ordinance:

a. Professionally certified or licensed landscapers, golf course contractors, and sports turf landscapers: during installation and 30 days following installation only. Professional landscapers must be certified or licensed for commercial exemptions to apply.

b. Irrigation contractors: during installation and as needed for proper maintenance and adjustments of irrigation systems and equipment only.

c. Sod producers.

d. Ornamental growers.

e. Fruit and vegetable growers.

f. Retail garden centers.

g. Hydro-seeding.

h. Power-washing.

i. Construction sites.

j. Producers of food and fiber.

- k. Car washes.
- l. Other activities essential to daily business.
- m. Watering-in of pesticides and herbicides on turf.

**SECTION 7:** That a new section 154-73.5 entitled Authority to Restrict Water Usage During Emergency Conditions, Repairs and Water Shortages be added to read as follows:

(a) *Authority.* Notwithstanding any provision to the contrary, the Commissioner is empowered to implement special water conservation measures during emergency conditions that threaten the public health, safety or welfare, or for repairs, water shortages or potential water shortages in addition to any outdoor water use restrictions in place during non-drought conditions or declared drought response levels. The type, nature, degree, commencement and duration of any restrictions or prohibitions are to be determined by order of the Commissioner.

(b) *Restrictions.* The water conservation measures may include restrictions or prohibitions on nonessential uses such as swimming pool filling, watering of lawns and gardens, washing of recreational or other vehicles, equipment, sidewalks, driveways, parking areas, tennis courts, patios, and other paved areas, recreational uses, and any other uses which the Commissioner may deem to be nonessential.

(c) *Notice.* Prior to the imposition of any restrictions under this ordinance-written notice of the restrictions or prohibitions imposed under this section due to water shortage, potential water shortage or prolonged routine maintenance interruptions shall be provided to the City Council and through the news media simultaneously. The notice shall set forth the specific nature of the restrictions or prohibitions, the reasons for the imposition of the restrictions or prohibitions, the date upon which the restrictions or prohibitions become effective, and their duration. Notice is not required for emergency diversions of water or emergency repairs; except to the City Council.

**SECTION 8:** That a new section 154-73.6 entitled Enforcement, Penalties for Violation and Termination of Service be added to read as follows:

(a) *Liability and Conditional Provision of Water Services.* No resident or customer shall use or allow the use of water in violation of the restrictions contained in this ordinance or restrictions issued by the Commissioner pursuant to this ordinance. All customers of water services are required to comply with this ordinance and restrictions issued pursuant to this ordinance as a condition of continued water services.

(b) *Enforcement Authority.* The Department of Watershed Management shall be the enforcement authority for this ordinance. The Mayor may also authorize other departments in the City as may be deemed necessary to support enforcement.

(c) *Administrative Penalties and Termination of Water Service.* No customer shall use or allow the use of water in violation of any provision of this ordinance or restrictions issued by the Commissioner pursuant to this ordinance.

(1) Violators of this ordinance or restrictions issued by the Commissioner pursuant to this ordinance shall be subject to the following schedule of administrative penalties:

(i) First violation. Written notice posted at the property where the violation occurred.

(ii) Second violation. \$100.00 administrative penalty placed upon water bill of customer's property where violation occurred.

(iii) Third violation. \$500.00 administrative penalty placed upon water bill of customer's property where violation occurred.

(iv) Fourth and Subsequent violations. \$1,000.00 administrative penalty placed upon water bill of customer's where violation occurred and/or service termination including charges for reconnection of service.

(2) *Notice.* In addition to the posting at the property for the first violation, notices of violation for the first and all subsequent violations of the restrictions in this ordinance or issued pursuant to this ordinance shall be sent by first class mail to the customer of record. The notice shall be in writing, include the address of where the violation occurred, the restriction which has been violated, and the consequences of subsequent violations. In the case of multi-family residential dwellings where two or more units are served by a single meter, written notice shall be mailed to the person in whose name the water bill is issued and administrative penalties shall be assessed accordingly.

(3) Any administrative penalties imposed pursuant to this section shall be payable to the City of Atlanta, remitted to the Water and Wastewater Operation and Maintenance Fund (2J01), and shall commence on the date of issuance of any notice of violation. Any such administrative penalties shall become a part of the customer's regular bill for service. Failure to remit payment shall be subject to the rules, procedures and penalties under Chapter 154, Article III, Section 120, Nonpayment of Bills.

(4) Any customer aggrieved or adversely affected by an administrative penalty imposed pursuant to this ordinance shall have an opportunity to request and be given a hearing before the Water and Sewer Appeals Board, established under Chapter 154, Article II, wherein the aggrieved or adversely affected customer shall have an opportunity to show cause as to why an administrative penalty or other enforcement action under this ordinance should not be taken.

(i) An aggrieved or adversely affected customer may request a show cause hearing by filing a written appeal to the water and sewer appeals board with

the Commissioner of the Department of Watershed Management, setting forth the basis of the appeal, provided that such appeals shall be forwarded to the water and sewer appeals board only if filed within seven business days of the date that the written notice to customers regarding their right to request a show cause hearing on or before the due date of the administrative penalty or other enforcement action is to be disputed.

(ii) Upon receipt by the Commissioner of the Department of Watershed Management of a request for a show cause hearing, customers shall not be required to pay the full amount of the administrative penalty or be subject to service termination for nonpayment of such administrative penalty, until final determination by the water and sewer appeals board, provided however, that a request for a show cause hearing shall not affect authority of the City to require full payment of other amounts under Chapter 154, Article II, Water Sewer Appeals Board, or to collect other amounts in dispute under Chapter 154, Article III, Water.

(iii) Any administrative penalties imposed pursuant to this ordinance may at the discretion of the Commissioner under extraordinary circumstances, be waived or reduced.

**SECTION 9:** That a new section 154-73.7 entitled Rulemaking Authority be added to read as follows:

The Commissioner is authorized to make all necessary and reasonable rules and policies with respect to the enforcement of this division. All such rules and policies shall be consistent with the provisions of this ordinance.

**SECTION 10:** That a new section 154-73.8 entitled Severability be added to read as follows:

If any provision, clause, sentence or paragraph of this ordinance, or the application thereof to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this ordinance which can be given effect without the invalid provisions or application and, to this end, the provisions of this ordinance are hereby declared to be severable.

**SECTION 11:** That the existing Chapter 154, Article II, Section 26, Water and Sewer Appeals Board, subsection (h)(1) is hereby repealed and replaced with the following:

“(1) Consider and rule on determinations made pursuant to this Article, provided that such appeals are timely and accompanied, unless waived by the Commissioner of the Department of Watershed Management, by the amount in dispute. Consider and rule on

appeals from administrative penalties imposed pursuant to the City of Atlanta Water Use Restrictions Ordinance.”

**SECTION 12:** That a new section 154-31 entitled Judicial Review, be added to read as follows:

“The City or any customer who is aggrieved or adversely affected by a final decision of the Water and Sewer Appeals Board regarding violations of water use restrictions, after exhausting his, her or its administrative remedies, shall have the right to appeal to the Superior Court of the county wherein the alleged violation occurred, for review of such written decision by filing a petition with the said Superior Court within 30 days after the service of the final decision of the Water Sewer Appeals Board. The Water and Sewer Appeals Board shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. The review shall be conducted by the court without a jury and shall be confined to the record. The court shall not substitute its judgment for that of the Water and Sewer Appeals Board as to the weight of the evidence on questions of fact. The court may affirm the decision of the Water and Sewer Appeals Board or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are: (1) In violation of constitutional or statutory provisions; (2) In excess of the authority of the Department of Watershed Management or the Water and Sewer Appeals Board; (3) Made upon unlawful procedure; (4) Affected by other error of law; (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.”

**SECTION 13:** Chapter 154, Article II, Section 27, subsection (b) of the Atlanta City Code is hereby amended to strike “The commissioner of water” and replace with “The Commissioner of the Department of Watershed Management.”

**SECTION 14:** Chapter 154, Article II, Section 26, subsection (i) of the Atlanta City Code is hereby amended to strike “the department of water or its contractor” and replace with “the Department of Watershed Management.”

**SECTION 15:** Chapter 154, Article II, Section 29 of the Atlanta City Code is hereby amended to strike reference to “section 154-28(3)” and replace with a reference to “section 154-28.”

**SECTION 16:** That all ordinances or parts in conflict herewith, be and the same are hereby repealed.

**A SUBSTITUTE ORDINANCE  
BY CITY UTILITIES COMMITTEE**

**07-O-0956**

**AN ORDINANCE TO REPEAL CHAPTER 154, ARTICLE III, DIVISION 1, WATER, SECTION 73 OF THE CITY OF ATLANTA CODE OF ORDINANCES; AND TO ESTABLISH COMPREHENSIVE WATER USE RESTRICTIONS, AUTHORIZE THE MAYOR OR HER DESIGNEE TO SET OUTDOOR WATER USE RESTRICTIONS BASED UPON DROUGHT RESPONSE LEVELS DECLARED BY THE DIRECTOR OF THE ENVIRONMENTAL PROTECTION DIVISION, DEPARTMENT OF NATURAL RESOURCES, STATE OF GEORGIA AND OTHER FACTORS; TO PROVIDE FOR ADDITIONAL WATER USE RESTRICTIONS DURING EMERGENCY CONDITIONS, REPAIRS AND WATER SHORTAGES, TO ESTABLISH PROVISIONS FOR ADEQUATE ENFORCEMENT OF OUTDOOR WATER USE SCHEDULES AND OTHER WATER USE RESTRICTIONS DURING EMERGENCY CONDITIONS, REPAIRS AND WATER SHORTAGES; TO AMEND, CHAPTER 154, ARTICLE II, WATER AND SEWER APPEALS BOARD; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Atlanta ("City") has an interest in maintaining the public health, safety and welfare of its residents and the City supplies drinking water to its customers; and

**WHEREAS**, the City recognizes that water is a vital resource and therefore supports the use of conservation measures to ensure the continuance of an adequate water supply for its residents and customers as well as for other jurisdictions that rely upon the same water sources as the City; and

**WHEREAS**, State of Georgia (the "State") has been experiencing abnormally dry conditions since February 2006 and metropolitan Atlanta is currently experiencing severe drought conditions that are expected to continue to intensify according to the State Climatologist's reports on May 21, 2007, and June 4, 2007; and

**WHEREAS**, drought, disasters, or other conditions, or the threat thereof, may arise from time to time creating emergency conditions which pose a threat to the provision of adequate water supply to residents and customers; and

**WHEREAS**, federal and state regulation of water supply and federal operation of reservoirs and dams that supply, control and regulate the water flow in sources relied

upon by the City further restrict the amount of water available to City residents and customers; and

**WHEREAS**, during the 1986-1988 drought, the City responded by enacting ordinances 86-O-2420 and 88-O-0917 imposing mandatory water restrictions on all customers of the City's water system;; and

**WHEREAS**, in 2000, the Environmental Protection Division, Department of Natural Resources, State of Georgia ("EPD") required all utilities in the fifteen county Metropolitan Atlanta area to implement restrictions on outdoor water usage and the City enacted Chapter 154, Article III, Division 1, Section 73 of the Atlanta City Code in ordinance 00-O-0840 establishing a process to impose water use restrictions; and

**WHEREAS**, subsequently on March 26, 2003, the Georgia Board of Natural Resources adopted the Georgia Drought Management Plan that includes pre-drought mitigation strategies and drought response strategies for regional, county and municipal governments, including among other things the recommendation that municipal water utilities "define pre-determined drought responses, with outdoor watering restrictions being at least as restrictive as the state minimum requirements"; and

**WHEREAS**, on May 26, 2004, the Georgia Board of Natural Resources promulgated Outdoor Water Use rules and regulations, Chapter 391-3-30, pursuant to the Georgia Water Quality Control Act, Title 12, Chapter 5, Article 2, establishing statewide outdoor water use schedules during drought and non-drought periods, authorizing local and regional water providers to implement additional outdoor water use restrictions within their jurisdictions, and encouraging local and regional water providers to consider placing additional water use restrictions on outdoor water use and specific commercial uses, among other things; and

**WHEREAS**, Ga. Comp. Rules and Regs. r. 391-3-30-.06 (2) conditions approval of requests by local water providers to seek alternative days for outdoor water use upon enactment of local ordinances establishing outdoor water use schedules consistent with the Georgia Rules for Outdoor Water Use; and

**WHEREAS**, on June 21, 2006, the Director of EPD declared Drought Response Level One restricting outdoor water use by allowing odd-numbered addresses to use water outdoors only on Tuesdays, Thursdays and Sundays between 12 midnight to 10 a.m. and 4 p.m. to 12 midnight and by allowing even-numbered and unnumbered addresses to use water outdoors only on Mondays, Wednesdays, and Saturdays between 12 midnight to 10 a.m. and 4 p.m. to 12 midnight; and

**WHEREAS**, on April 18, 2007, the Director of EPD declared Drought Response Level Two restricting outdoor water use by allowing odd-numbered addresses to use water outdoors only on Tuesdays, Thursdays and Sundays between 12 midnight to 10 a.m. and even-numbered and unnumbered addresses to use water outdoors only on Mondays, Wednesdays, and Saturdays between 12 midnight to 10 a.m.; and

**WHEREAS**, the best interests of the City would be served by extending state water use restriction times from 12 midnight to 10 a.m. and 4 p.m. to midnight to 12 midnight to 10 a.m. and 8 p.m. to midnight during Non-Drought and Declared Drought Response Level One; and

**WHEREAS**, the State from time to time may require the City, City residents and City water customers to adhere to certain water use restrictions and the State is relying upon local governments and water providers to enforce water use restrictions among their residents and customers; and

**WHEREAS**, the City of Atlanta's water supply may be threatened to the extent that the City may not be able to meet demand for water if dry conditions worsen and enforceable restrictions are not put in place.

**NOW, THEREFORE THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS:**

**SECTION 1:** That Section 154-73 of Chapter 154, Article III, Water, is hereby repealed.

**SECTION 2:** That a new Section 154-73 entitled Water Use Restrictions be added to read as follows:

(a) This section and all sections beginning with 154-73 shall collectively be known as the "City of Atlanta Water Use Restrictions Ordinance" and may be referred to throughout sections beginning with 154-73 as "this ordinance."

(b) City of Atlanta has the authority to adopt this ordinance pursuant to Article 9, Section 2, Paragraphs II and III of the Constitution of the State of Georgia, Chapter 35 of Title 36 and Section 31 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated, the Georgia Department of Natural Resources Rules for Outdoor Water Use, Ga. Comp. R. & Regs. Ch. 391-3-30, and Section 1-102 (c) (9) of the Atlanta City Charter (1996 Ga. L. (Act No. 1019), p. 4469).

**SECTION 3:** That a new Section 154-73.1 with the heading Purpose and Intent be added to read as follows:

(a) The purpose of this ordinance is to protect the public health, safety and welfare by adopting and enforcing water use measures that encourage water conservation and ensure adequate supplies of water for the residents and water customers of the City.

(b) It is the policy of the City to promote water conservation by regulating outdoor water use, by complying with the laws and regulations imposed by the State of Georgia on outdoor water use; and by restricting water usage during emergency conditions.



**SECTION 4:** That a new section 154-73.2 entitled Definitions be added to read as follows:

When used in this ordinance:

- (a) "Address" means the "house number" (a numeric or alphanumeric designation) that, together with the street name, describes a physical location of a specific property.
  - (1) "Even numbered address" means a house number ending with the number 0, 2, 4, 6, 8, or no house number.
  - (2) "Odd numbered address" means a house number ending with the number 1, 3, 5, 7, or 9.
- (b) "Commissioner" means the commissioner of the department of watershed management or his/her designee who is vested with the authority and responsibility for the implementation of an effective outdoor water use program and for the enforcement of the provisions of this ordinance.
- (c) "Declared drought response level" means one of four levels of drought that can be declared by the environmental protection division based on the severity of drought conditions, with one being the least severe and four being the most severe.
- (d) "Director" means the director of the Environmental Protection Division as defined in this ordinance.
- (e) "Environmental Protection Division ("EPD" or "Division")" means an organizational unit of the State of Georgia Department of Natural Resources ("DNR"), which has responsibility for administration of the State of Georgia's Rules for Outdoor Water Use (Ga. Comp. R. & Regs. Chapter 391-3-30) promulgated by the State of Georgia Board of Natural Resources.

**SECTION 5:** That a new section 154-73.3 entitled Outdoor water use schedule during non-drought periods and declared drought response levels be added to read as follows:

Pre-determined water use restrictions at least as restrictive as the following are hereby imposed:

- (a) When there are no declared drought conditions or when the Director makes drought declarations as authorized by state law and rules, outdoor water use other than activities exempted by this ordinance, shall occur only during scheduled hours on the scheduled days as described in this section.
- (b) When there are no declared drought conditions or when the Director has declared Drought Response Level One, outdoor water use may occur on scheduled days within the hours of 12:00 midnight to 10:00 a.m. and 8:00 p.m. to 12:00 midnight.

(1) Scheduled days for odd-numbered addresses are Tuesdays, Thursdays and Sundays.

(2) Scheduled days for even-numbered addresses are Mondays, Wednesdays and Saturdays.

(3) Use of hydrants for any purpose other than firefighting, public health, safety or flushing is prohibited.

(c) When the Director has declared Drought Response Level Two, outdoor water use may occur on scheduled days within the hours of 12:00 midnight to 10:00 a.m.

(1) Scheduled days for odd-numbered addresses are Tuesdays, Thursdays and Sundays.

(2) Scheduled days for even-numbered addresses and golf course fairways are Mondays, Wednesdays and Saturdays.

(3) The following uses are prohibited:

a. Using hydrants for any purpose other than firefighting, public health, safety or flushing.

b. Washing hard surfaces, such as streets, gutters, sidewalks and driveways except when necessary for public health and safety.

(d) When the Director has declared Drought Response Level Three, outdoor water use may occur on the scheduled day within the hours of 12:00 midnight to 10:00 a.m.

(1) The scheduled day for odd-numbered addresses is Sunday.

(2) The scheduled day for even-numbered addresses and golf course fairways is Saturday.

(3) The following uses are prohibited:

a. Using hydrants for any purpose other than firefighting, public health, safety or flushing.

b. Washing hard surfaces, such as streets, gutters, sidewalks, driveways, except when necessary for public health and safety.

c. Filling installed swimming pools except when necessary for health care or structural integrity.

- d. Washing vehicles, such as cars, boats, trailers, motorbikes, airplanes, golf carts.
- e. Washing buildings or structures except for immediate fire protection.
- f. Non-commercial fund-raisers, such as car washes.
- g. Using water for ornamental purposes, such as fountains, reflecting pools, and waterfalls except when necessary to support aquatic life.

(e) When the Director has declared drought response level four, no outdoor water use is allowed, other than for activities exempted in this ordinance, or as the Director may order.

(f) The Commissioner of the Department of Watershed Management may modify or cancel water restrictions and schedules or add additional restrictions for any and all water users from time to time as drought or other emergency conditions affecting the water system including but not limited to emergency repairs, water shortages or potential water shortages may worsen or abate. Modifications to water restriction schedules may include but are not limited to restricting public parks and recreational facilities to the scheduled days of Monday and Friday during the hours of 12 midnight to 10 a.m, during Declared Drought Response Level Three.

**SECTION 6:** That a new section 154-73.4 entitled Exemptions be added to read as follows:

This ordinance shall not apply to the following outdoor water uses:

(a) Capture and re-use of cooling system condensate or storm water in compliance with applicable local ordinances.

(b) Re-use of gray water in compliance with applicable local ordinances.

(c) The following established landscape water uses are exempt from the outdoor water use schedules of this ordinance:

(1) Use of reclaimed wastewater by a designated user from a system permitted by the Director to provide reclaimed wastewater.

(2) Irrigation of personal food gardens.

(3) Newly (in place less than thirty days) installed landscapes are subject to the following:

a. Irrigation of newly installed landscapes is allowed any day of the week, but only during allowed hours for the drought response level in effect, for a

period of 30 days following installation. No watering is allowed during Drought Response Level Four.

b. For new landscapes installed by certified or licensed professionals, commercial exemptions apply.

(4) The following golf course outdoor water uses are exempt from the outdoor water use schedules of this ordinance:

a. Use of reclaimed wastewater by a designated user from a system permitted by EPD to provide reclaimed wastewater.

b. Irrigation of fairways during times of non-drought and declared drought response level one.

c. Irrigation of tees during times of non-drought and declared drought response levels one, two and three.

d. Irrigation of greens.

(5) The following commercial outdoor water uses are exempt from the outdoor water use schedules of this ordinance:

a. Professionally certified or licensed landscapers, golf course contractors, and sports turf landscapers: during installation and 30 days following installation only. Professional landscapers must be certified or licensed for commercial exemptions to apply.

b. Irrigation contractors: during installation and as needed for proper maintenance and adjustments of irrigation systems and equipment only.

c. Sod producers.

d. Ornamental growers.

e. Fruit and vegetable growers.

f. Retail garden centers.

g. Hydro-seeding.

h. Power-washing.

i. Construction sites.

j. Producers of food and fiber.

- k. Car washes.
- l. Other activities essential to daily business.
- m. Watering-in of pesticides and herbicides on turf.

**SECTION 7:** That a new section 154-73.5 entitled Authority to Restrict Water Usage During Emergency Conditions, Repairs and Water Shortages be added to read as follows:

(a) *Authority.* Notwithstanding any provision to the contrary, the Commissioner is empowered to implement special water conservation measures during emergency conditions that threaten the public health, safety or welfare, or for repairs, water shortages or potential water shortages in addition to any outdoor water use restrictions in place during non-drought conditions or declared drought response levels. The type, nature, degree, commencement and duration of any restrictions or prohibitions are to be determined by order of the Commissioner.

(b) *Restrictions.* The water conservation measures may include restrictions or prohibitions on nonessential uses such as swimming pool filling, watering of lawns and gardens, washing of recreational or other vehicles, equipment, sidewalks, driveways, parking areas, tennis courts, patios, and other paved areas, recreational uses, and any other uses which the Commissioner may deem to be nonessential.

(c) *Notice.* Notice of the restrictions or prohibitions imposed under this section due to water shortage, potential water shortage or prolonged routine maintenance interruptions shall be made through the news media. The notice shall set forth the specific nature of the restrictions or prohibitions, the reasons for the imposition of the restrictions or prohibitions, the date upon which the restrictions or prohibitions become effective, and their duration. Notice is not required for emergency diversions of water or emergency repairs.

**SECTION 8:** That a new section 154-73.6 entitled Enforcement, Penalties for Violation and Termination of Service be added to read as follows:

(a) *Liability and Conditional Provision of Water Services.* No resident or customer shall use or allow the use of water in violation of the restrictions contained in this ordinance or restrictions issued by the Commissioner pursuant to this ordinance. All customers of water services are required to comply with this ordinance and restrictions issued pursuant to this ordinance as a condition of continued water services.

(b) *Enforcement Authority.* The Department of Watershed Management shall be the enforcement authority for this ordinance. The Mayor may also authorize other departments in the City as may be deemed necessary to support enforcement.

(c) *Administrative Penalties and Termination of Water Service.* No customer shall use or allow the use of water in violation of any provision of this ordinance or restrictions issued by the Commissioner pursuant to this ordinance.

(1) Violators of this ordinance or restrictions issued by the Commissioner pursuant to this ordinance shall be subject to the following schedule of administrative penalties:

(i) First violation. Written notice posted at the property where the violation occurred.

(ii) Second violation. \$100.00 administrative penalty placed upon water bill of customer's property where violation occurred.

(iii) Third violation. \$500.00 administrative penalty placed upon water bill of customer's property where violation occurred.

(iv) Fourth and Subsequent violations. \$1,000.00 administrative penalty placed upon water bill of customer's where violation occurred and/or service termination including charges for reconnection of service.

(2) *Notice.* In addition to the posting at the property for the first violation, notices of violation for the first and all subsequent violations of the restrictions in this ordinance or issued pursuant to this ordinance shall be sent by first class mail to the customer of record. The notice shall be in writing, include the address of where the violation occurred, the restriction which has been violated, and the consequences of subsequent violations. In the case of multi-family residential dwellings where two or more units are served by a single meter, written notice shall be mailed to the person in whose name the water bill is issued and administrative penalties shall be assessed accordingly.

(3) Any administrative penalties imposed pursuant to this section shall be payable to the City of Atlanta, remitted to the Water and Wastewater Operation and Maintenance Fund (2J01), and shall commence on the date of issuance of any notice of violation. Any such administrative penalties shall become a part of the customer's regular bill for service. Failure to remit payment shall be subject to the rules, procedures and penalties under Chapter 154, Article III, Section 120, Nonpayment of Bills.

(4) Any customer aggrieved or adversely affected by an administrative penalty imposed pursuant to this ordinance shall have an opportunity to request and be given a hearing before the Water and Sewer Appeals Board, established under Chapter 154, Article II, wherein the aggrieved or adversely affected customer shall have an opportunity to show cause as to why an administrative penalty or other enforcement action under this ordinance should not be taken.

(i) An aggrieved or adversely affected customer may request a show cause hearing by filing a written appeal to the water and sewer appeals board with

the Commissioner of the Department of Watershed Management, setting forth the basis of the appeal, provided that such appeals shall be forwarded to the water and sewer appeals board only if filed within seven business days of the date that the written notice to customers regarding their right to request a show cause hearing on or before the due date of the administrative penalty or other enforcement action is to be disputed.

(ii) Upon receipt by the Commissioner of the Department of Watershed Management of a request for a show cause hearing, customers shall not be required to pay the full amount of the administrative penalty or be subject to service termination for nonpayment of such administrative penalty, until final determination by the water and sewer appeals board, provided however, that a request for a show cause hearing shall not affect authority of the City to require full payment of other amounts under Chapter 154, Article II, Water Sewer Appeals Board, or to collect other amounts in dispute under Chapter 154, Article III, Water.

(iii) Any administrative penalties imposed pursuant to this ordinance may at the discretion of the Commissioner under extraordinary circumstances, be waived or reduced.

(5) Imposition of administrative penalties shall not be a bar to, or be a prerequisite for, taking other criminal enforcement action. Any violation of this ordinance may also be enforced by a citation to municipal court, or other court of competent jurisdiction pursuant to section 1-8 of the Atlanta City Code or similar provisions in the applicable jurisdiction.

**SECTION 9:** That a new section 154-73.7 entitled Rulemaking Authority be added to read as follows:

The Commissioner is authorized to make all necessary and reasonable rules and policies with respect to the enforcement of this division. All such rules and policies shall be consistent with the provisions of this ordinance.

**SECTION 10:** That a new section 154-73.8 entitled Severability be added to read as follows:

If any provision, clause, sentence or paragraph of this ordinance, or the application thereof to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this ordinance which can be given effect without the invalid provisions or application and, to this end, the provisions of this ordinance are hereby declared to be severable.

**SECTION 11:** That the existing Chapter 154, Article II, Section 26, Water and Sewer Appeals Board, subsection (h)(1) is hereby repealed and replaced with the following:

“(1) Consider and rule on determinations made pursuant to this Article, provided that such appeals are timely and accompanied, unless waived by the Commissioner of the Department of Watershed Management, by the amount in dispute. Consider and rule on appeals from administrative penalties imposed pursuant to the City of Atlanta Water Use Restrictions Ordinance.”

**SECTION 12:** That a new section 154-31 entitled Judicial Review, be added to read as follows:

“The City or any customer who is aggrieved or adversely affected by a final decision of the Water and Sewer Appeals Board regarding violations of water use restrictions, after exhausting his, her or its administrative remedies, shall have the right to appeal to the Superior Court of the county wherein the alleged violation occurred, for review of such written decision by filing a petition with the said Superior Court within 30 days after the service of the final decision of the Water Sewer Appeals Board. The Water and Sewer Appeals Board shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. The review shall be conducted by the court without a jury and shall be confined to the record. The court shall not substitute its judgment for that of the Water and Sewer Appeals Board as to the weight of the evidence on questions of fact. The court may affirm the decision of the Water and Sewer Appeals Board or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are: (1) In violation of constitutional or statutory provisions; (2) In excess of the authority of the Department of Watershed Management or the Water and Sewer Appeals Board; (3) Made upon unlawful procedure; (4) Affected by other error of law; (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.”

**SECTION 13:** Chapter 154, Article II, Section 27, subsection (b) of the Atlanta City Code is hereby amended to strike “The commissioner of water” and replace with “The Commissioner of the Department of Watershed Management.”

**SECTION 14:** Chapter 154, Article II, Section 26, subsection (i) of the Atlanta City Code is hereby amended to strike “the department of water or its contractor” and replace with “the Department of Watershed Management.”

**SECTION 15:** Chapter 154, Article II, Section 29 of the Atlanta City Code is hereby amended to strike reference to “section 154-28(3)” and replace with a reference to “section 154-28.”

**SECTION 16:** That all ordinances or parts in conflict herewith, be and the same are hereby repealed.



**AN ORDINANCE BY  
CITY UTILITIES COMMITTEE**

**07-0-0956**

**AN ORDINANCE TO REPEAL SECTION 154-73, CHAPTER 154, ARTICLE III, DIVISION 1, WATER, OF THE CITY OF ATLANTA CODE OF ORDINANCES; AND TO ESTABLISH COMPREHENSIVE WATER USE RESTRICTIONS, AUTHORIZE THE MAYOR OR HER DESIGNEE TO SET OUTDOOR WATER USE RESTRICTIONS BASED UPON DROUGHT RESPONSE LEVELS DECLARED BY THE DIRECTOR OF THE ENVIRONMENTAL PROTECTION DIVISION, DEPARTMENT OF NATURAL RESOURCES, STATE OF GEORGIA; TO PROVIDE FOR ADDITIONAL WATER USE RESTRICTIONS DURING EMERGENCY CONDITIONS, REPAIRS AND WATER SHORTAGES, TO ESTABLISH PROVISIONS FOR ADEQUATE ENFORCEMENT OF OUTDOOR WATER USE SCHEDULES AND OTHER WATER USE RESTRICTIONS DURING EMERGENCY CONDITIONS, REPAIRS AND WATER SHORTAGES; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Atlanta ("City") has an interest in maintaining the public health, safety and welfare of its residents; and

**WHEREAS**, the City supplies drinking water to its customers; and

**WHEREAS**, the City recognizes that water is a potentially scarce resource and therefore supports the use of conservation measures to ensure the continuance of an adequate water supply for its residents and customers as well as for other jurisdictions that rely upon the same water sources as the City; and

**WHEREAS**, drought, disasters, or other conditions, or the threat thereof, may arise from time to time creating emergency conditions which pose a threat to the provision of adequate water supply to residents and customers; and

**WHEREAS**, federal and state regulation of water supply and federal operation of reservoirs and dams that supply, control and regulate the water flow in sources relied upon by the City further restrict the amount of water available to City residents and customers; and

**WHEREAS**, demand for water by City residents and customers is increasing; and,

**WHEREAS**, during the 1986-1988 drought, the City responded by enacting ordinances imposing mandatory water restrictions on all customers of the City's water system, [86-O-2420 and 88-O-0917]; and

**WHEREAS**, in 2000, the Georgia Department of Natural Resources required all utilities in the fifteen county Metropolitan Atlanta area to implement restrictions on outdoor water usage and the City attempted to enforce said restrictions by resolution [00-R-0826]; and

**WHEREAS**, in 2000, the City enacted Section 154-73 of the Atlanta City Code [00-O-0840] establishing a process to impose water use restrictions; and

**WHEREAS**, subsequently on March 26, 2003, the Georgia Board of Natural Resources adopted the Georgia Drought Management Plan that includes pre-drought mitigation strategies and drought response strategies for regional, county and municipal governments, including among other things the recommendation that municipal water utilities "define pre-determined drought responses, with outdoor watering restrictions being at least as restrictive as the state minimum requirements"; and

**WHEREAS**, on May 26, 2004, the Georgia Board of Natural Resources promulgated Outdoor Water Use rules and regulations, Chapter 391-3-30, pursuant to the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20 *et seq.*, establishing statewide outdoor water use schedules during drought and non-drought periods, authorizing local and regional water providers to implement additional outdoor water use restrictions within their jurisdictions, and encouraging local and regional water providers to consider placing additional water use restrictions on specific commercial uses and placing additional restrictions on outdoor water use among other things; and

**WHEREAS**, Ga. Rules and Regs. r. 391-3-30-.06 (2) conditions approval of requests by local water providers to seek alternative days for outdoor water use upon enactment of local ordinances establishing outdoor water use schedules consistent with the Georgia Rules for Outdoor Water Use; and

**WHEREAS**, the State of Georgia has been experiencing abnormally dry conditions since February 2006 and metropolitan Atlanta is currently experiencing moderate drought conditions; and

**WHEREAS**, on June 21, 2006, the Director of the Georgia Environmental Protection Division declared Drought Response Level One restricting outdoor water use by allowing odd-numbered addresses to use water outdoors only on Tuesdays, Thursdays and Sundays between 12 midnight to 10 a.m. and 4 p.m. to 12 midnight and by allowing even-numbered and unnumbered addresses to use water outdoors only on Mondays, Wednesdays, and Saturdays between 12 midnight to 10 a.m. and 4 p.m. to 12 midnight; and

**WHEREAS**, on April 18, 2007, the Director of the Georgia Environmental Protection Division declared Drought Response Level Two restricting outdoor water use by allowing odd-numbered addresses to use water outdoors only on Tuesdays, Thursdays and Sundays between 12 midnight to 10 a.m. and even-numbered and unnumbered addresses to use water outdoors only on Mondays, Wednesdays, and Saturdays between 12 midnight to 10 a.m.; and

**WHEREAS**, the best interests of the City would be served by extending state water use restriction times from 12 midnight to 10 a.m. and 4 p.m. to midnight to 12 midnight to 10

a.m. and 8 p.m. to midnight during non-drought and Declared Drought Response Level One; and

**WHEREAS**, the State from time to time may require the City, City residents and City water customers to adhere to certain water use restrictions and generally the City is better positioned than the State to enforce water use restrictions among its residents and customers; and

**WHEREAS**, the City of Atlanta's water supply may be threatened to the extent that the City may not be able to meet demand for water if dry conditions worsen and enforceable restrictions are not put in place.

**THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS:**

**SECTION 1:** That Section 154-73 of Chapter 154, Article III, Water, is hereby repealed.

**SECTION 2:** That a new Section 154-73 entitled Water Use Restrictions be added to read as follows:

(a) This section and all sections beginning with 154-73 shall collectively be known as the "City of Atlanta Water Use Restriction Ordinance".

(b) City of Atlanta has the authority to adopt this ordinance pursuant to Article 9, Section 2, Paragraphs II and III of the Constitution of the State of Georgia, Chapter 35 of Title 36 and Section 31 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated, the Georgia Department of Natural Resources Rules for Outdoor Water Use, Ga. Comp. R. & Regs. Ch. 391-3-30, and Section 1-102 (c) (9) of the Atlanta City Charter (1996 Ga. L. (Act No. 1019), p. 4469).

**SECTION 3:** That a new Section 154-73.1 with the heading Purpose and Intent be added to read as follows:

(a) The purpose of this ordinance is to protect the public health, safety and welfare by adopting and enforcing water use measures that encourage water conservation and ensure adequate supplies of water for the residents and water customers of the City.

(b) It is the policy of the City to promote water conservation by regulating outdoor water use, by complying with the laws and regulations imposed by the State on outdoor water use; and by restricting water usage during emergency conditions.

**SECTION 4:** That a new section 154-73.2 entitled Definitions be added to read as follows:

When used in this ordinance:

(a) "Address" means the "house number" (a numeric or alphanumeric designation) that, together with the street name, describes a physical location of a specific property.

(1) "Even numbered address" means a house number ending with the number 0, 2, 4, 6, 8, or no house number.

(2) "Odd numbered address" means a house number ending with the number 1, 3, 5, 7, or 9.

(b) "Commissioner" means the commissioner of the department of watershed management or his/her designee who is vested with the authority and responsibility for the implementation of an effective outdoor water use program and for the enforcement of the provisions of this ordinance.

(c) "Declared drought response level" means one of four levels of drought that can be declared by the environmental protection division based on the severity of drought conditions, with one being the least severe and four being the most severe.

(d) "Director" means the director of the Environmental Protection Division as defined in this ordinance.

(e) "Environmental Protection Division (EPD or Division)" means an organizational unit of the State of Georgia Department of Natural Resources (DNR), which has responsibility for administration of the State of Georgia's Rules for Outdoor Water Use (Ga. Comp. R. & Regs. Chapter 391-3-30) promulgated by the State of Georgia Board of Natural Resources.

**SECTION 5:** That a new section 154-73.3 entitled Outdoor water use schedule during non-drought periods and declared drought response levels be added to read as follows:

(a) When there are no Declared drought conditions or when the Director makes drought declarations as authorized by state law and rules, outdoor water use other than activities exempted by this ordinance, shall occur only during scheduled hours on the scheduled days as described in this section.

(b) When there are no Declared drought conditions or when the Director has declared Drought Response Level One, outdoor water use may occur on scheduled days within the hours of 12:00 midnight to 10:00 a.m. and 8:00 p.m. to 12:00 midnight.

(1) Scheduled days for odd-numbered addresses are Tuesdays, Thursdays and Sundays.

(2) Scheduled days for even-numbered addresses are Mondays, Wednesdays and Saturdays.

(3) Use of hydrants for any purpose other than firefighting, public health, safety or flushing is prohibited.

(c) When the Director has declared Drought Response Level Two, outdoor water use may occur on scheduled days within the hours of 12:00 midnight to 10:00 a.m.

(1) Scheduled days for odd-numbered addresses are Tuesdays, Thursdays and Sundays.

(2) Scheduled days for even-numbered addresses and golf course fairways are Mondays, Wednesdays and Saturdays.

(3) The following uses are prohibited:

a. Using hydrants for any purpose other than firefighting, public health, safety or flushing.

b. Washing hard surfaces, such as streets, gutters, sidewalks and driveways except when necessary for public health and safety.

(d) When the Director has declared Drought Response Level Three, outdoor water use may occur on the scheduled day within the hours of 12:00 midnight to 10:00 a.m.

(1) The scheduled day for odd-numbered addresses is Sunday.

(2) The scheduled day for even-numbered addresses and golf course fairways is Saturday.

(3) The following uses are prohibited:

a. Using hydrants for any purpose other than firefighting, public health, safety or flushing.

b. Washing hard surfaces, such as streets, gutters, sidewalks, driveways, except when necessary for public health and safety.

c. Filling installed swimming pools except when necessary for health care or structural integrity.

d. Washing vehicles, such as cars, boats, trailers, motorbikes, airplanes, golf carts.

e. Washing buildings or structures except for immediate fire protection.

- f. Non-commercial fund-raisers, such as car washes.
- g. Using water for ornamental purposes, such as fountains, reflecting pools, and waterfalls except when necessary to support aquatic life.

(e) When the Director has declared drought response level four, no outdoor water use is allowed, other than for activities exempted in this ordinance, or as the Director may order.

**SECTION 6:** That a new section 154-73.4 entitled Exemptions be added to read as follows:

This ordinance shall not apply to the following outdoor water uses:

(a) Capture and re-use of cooling system condensate or storm water in compliance with applicable local ordinances.

(b) Re-use of gray water in compliance with applicable local ordinances.

(c) The following established landscape water uses are exempt from the outdoor water use schedules of this ordinance:

(1) Use of reclaimed wastewater by a designated user from a system permitted by the Director to provide reclaimed wastewater.

(2) Irrigation of personal food gardens.

(3) Newly (in place less than thirty days) installed landscapes are subject to the following:

a. Irrigation of newly installed landscapes is allowed any day of the week, but only during allowed hours for the drought response level in effect, for a period of 30 days following installation. No watering is allowed during Drought Response Level Four.

b. For new landscapes installed by certified or licensed professionals, commercial exemptions apply.

(4) The following golf course outdoor water uses are exempt from the outdoor water use schedules of this ordinance:

a. Use of reclaimed wastewater by a designated user from a system permitted by EPD to provide reclaimed wastewater.

b. Irrigation of fairways during times of non-drought and declared drought response level one.

c. Irrigation of tees during times of non-drought and declared drought response levels one, two and three.

d. Irrigation of greens.

(5) The following commercial outdoor water uses are exempt from the outdoor water use schedules of this ordinance:

a. Professionally certified or licensed landscapers, golf course contractors, and sports turf landscapers: during installation and 30 days following installation only. Professional landscapers must be certified or licensed for commercial exemptions to apply.

b. Irrigation contractors: during installation and as needed for proper maintenance and adjustments of irrigation systems and equipment only.

c. Sod producers.

d. Ornamental growers.

e. Fruit and vegetable growers.

f. Retail garden centers.

g. Hydro-seeding.

h. Power-washing.

i. Construction sites.

j. Producers of food and fiber.

k. Car washes.

l. Other activities essential to daily business.

m. Watering-in of pesticides and herbicides on turf.

**SECTION 7:** That a new section 154-73.5 entitled Authority to Restrict Water Usage During Emergency Conditions, Repairs and Water Shortages be added to read as follows:

(a) *Authority.* Notwithstanding any provision to the contrary, the Commissioner is empowered to implement special water conservation measures during emergency

conditions that threaten the public health, safety or welfare, or for repairs, water shortages or potential water shortages in addition to any outdoor water use restrictions in place during non-drought conditions or declared drought response levels. The type, nature, degree, commencement and duration of any restrictions or prohibitions are to be determined by order of the Commissioner.

(b) *Restrictions.* The water conservation measures may include restrictions or prohibitions on nonessential uses such as swimming pool filling, watering of lawns and gardens, washing of recreational or other vehicles, equipment, sidewalks, driveways, parking areas, tennis courts, patios, and other paved areas, recreational uses, and any other uses which the Commissioner may deem to be nonessential.

(c) *Notice.* Notice of the restrictions or prohibitions imposed under this section due to water shortage, potential water shortage or prolonged routine maintenance interruptions shall be made through the news media. The notice shall set forth the specific nature of the restrictions or prohibitions, the reasons for the imposition of the restrictions or prohibitions, the date upon which the restrictions or prohibitions become effective, and their duration. Notice is not required for emergency diversions of water or emergency repairs.

**SECTION 8:** That a new section 154-73.6 entitled Enforcement, Penalties for Violation and Termination of Service be added to read as follows:

(a) *Liability and Conditional Provision of Water Services.* No resident or customer shall use or allow the use of water in violation of the restrictions contained in this ordinance or restrictions issued by the Commissioner pursuant to this ordinance. All customers of water services are required to comply with this ordinance and restrictions issued pursuant to this ordinance as a condition of continued water services.

(b) *Criminal Enforcement.* Violation of any provision of this ordinance shall be cause for a citation to be issued by the Commissioner or his or her designee, the police or any other authorized and sworn city personnel. Said citation shall indicate that the resident, customer, or person is in violation of this ordinance.

(c) *Criminal Penalties and Termination of Water Service.* Any person convicted by a court of competent jurisdiction of a violating any provision of this ordinance or restrictions issued by the Commissioner pursuant to this ordinance shall be guilty of a misdemeanor and subject to the following penalties:

(1) *First Offense.* A written warning citation.

(2) *Second Offense.* A fine not less than \$250.00 and not more than \$500.00, or a minimum confinement in the city jail not to exceed five days and a probationary period not to exceed 15 days, or both.



(3) *Third and Subsequent Offenses.* A fine not less than \$500.00 and not more than \$1,000.00, or a minimum confinement in the city jail not to exceed ten days and a probationary period not to exceed 30 days, or both, and termination of water service.

(d) *Administrative Penalties and Termination of Water Service.* No customer shall use or allow the use of water in violation of any provision of this ordinance or restrictions issued by the Commissioner pursuant to this ordinance.

(1) Violators of this ordinance or restrictions issued by the Commissioner pursuant to this ordinance shall be subject to the following schedule of administrative penalties:

(i) First violation. Written notice posted at the property where the violation occurred.

(ii) Second violation. \$250.00 administrative penalty placed upon water bill of customer's property where violation occurred.

(iii) Third violation. \$500.00 administrative penalty placed upon water bill of customer's property where violation occurred.

(iv) Fourth and Subsequent violations. \$1,000.00 administrative penalty placed upon water bill of customer's where violation occurred.

(2) *Notice.* In addition to the posting at the property for the first violation, notice of violations of the restrictions in this ordinance or issued pursuant to this ordinance shall be sent by first class mail to the customer of record.

(3) Imposition of administrative penalties to enforce this ordinance shall not be a bar to, or prerequisite for initiating criminal or other enforcement actions permitted under this ordinance.

(4) Any administrative penalties imposed pursuant to this ordinance may at the discretion of the Commissioner under extraordinary circumstances, be waived or reduced.

(5) Any administrative penalties imposed pursuant to this section shall be payable to the City of Atlanta, shall commence on the date of issuance of any notice of violation and shall not be affected by the filing of any appeal. Any such administrative penalties shall become a part of the customer's regular bill for service. Failure to remit payment as required under section 154-20 will subject the customer to a termination of service.

(6) Any customer affected by an administrative penalty imposed pursuant to this ordinance shall have an opportunity to appeal said penalty pursuant to section 154-29.

**SECTION 9:** That a new section 154-73.7 entitled Rulemaking Authority be added to read as follows:

The Commissioner is authorized to make all necessary and reasonable rules and policies with respect to the enforcement of this division. All such rules and policies shall be consistent with the provisions of this ordinance.

**SECTION 10:** That a new section 154-73.8 entitled Severability be added to read as follows:

If any provision, clause, sentence or paragraph of this ordinance, or the application thereof to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this ordinance which can be given effect without the invalid provisions or application and, to this end, the provisions of this ordinance are hereby declared to be severable.

**SECTION 11:** That all ordinances or parts in conflict herewith, be and the same are hereby repealed.

**LEGISLATIVE COUNSEL  
REQUEST FOR LEGISLATION**

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**Part II: Legislative White Paper:**

**A. To be completed by Legislative Counsel:**

**Committee of Purview:** City Utilities

**Caption:** AN ORDINANCE BY  
CITY UTILITIES COMMITTEE

**AN ORDINANCE TO REPEAL SECTION 154-73, CHAPTER 154, ARTICLE III, DIVISION 1, WATER, OF THE CITY OF ATLANTA CODE OF ORDINANCES; AND TO ESTABLISH COMPREHENSIVE WATER USE RESTRICTIONS, AUTHORIZE THE MAYOR OR HER DESIGNEE TO SET OUTDOOR WATER USE RESTRICTIONS BASED UPON DROUGHT RESPONSE LEVELS DECLARED BY THE DIRECTOR OF THE ENVIRONMENTAL PROTECTION DIVISION, DEPARTMENT OF NATURAL RESOURCES, STATE OF GEORGIA; TO PROVIDE FOR ADDITIONAL WATER USE RESTRICTIONS DURING EMERGENCY CONDITIONS, REPAIRS AND WATER SHORTAGES, TO ESTABLISH PROVISIONS FOR ADEQUATE ENFORCEMENT OF OUTDOOR WATER USE SCHEDULES AND OTHER WATER USE RESTRICTIONS DURING EMERGENCY CONDITIONS, REPAIRS AND WATER SHORTAGES; AND FOR OTHER PURPOSES.**

**Council Meeting Date:** May 21, 2007

**Requesting Dept:** Watershed

**B. To be completed by the department:**

**1. Please provide a summary of the purpose of this legislation (Justification Statement).**

The purpose of this legislation is to have the City of Atlanta change the Code of Ordinance pursuant to Article 9, Section 2, Paragraphs II and III of the Constitution of the State of Georgia, Chapter 35 of Title 36 and Section 31 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated, the Georgia Department of Natural Resources Rules for Outdoor Water Use, Ga. Comp. R. & Regs. Ch. 391-3-30, and Section 1-102 (c) (9) of the Atlanta City Charter (1996 Ga. L. (Act No. 1019), p. 4469).

**2. Please provide background information regarding this legislation.**

Federal and state regulation of water supply and federal operation of reservoirs and dams that supply, control and regulate the water flow in sources relied upon by the City further restrict the amount of water available to City residents and customers. This legislation places the code in compliance with existing state and federal regulation.

**3. If Applicable/Known:**

- (a) **Contract Type (e.g. Professional Services, Construction Agreement, etc):**
- (b) **Source Selection:**
- (c) **Bids/Proposals Due:**
- (d) **Invitations Issued:**
- (e) **Number of Bids:**
- (f) **Proposals Received:**
- (g) **Bidders/Proponents:**
- (h) **Term of Contract:**

**4. Fund Account Center (Ex. Name and number):**

Fund: \_\_\_\_\_ Account: \_\_\_\_\_ Center: \_\_\_\_\_

**5. Source of Funds: *Example: Local Assistance Grant* N/a**

**6. Fiscal Impact: N/A**

**7. Method of Cost Recovery: N/A**

**This Legislative Request Form Was Prepared By: Maisha L. Wood**

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: GREG PRIDGEON

Legislative Counsel (Signature): M. Theresa Stewart

Contact Number: x6207

Originating Department: Watershed Management

Committee(s) of Purview: City Utilities

Council Deadline: May 7, 2007

Anticipated Committee Meeting Date(s): May 15, 2007

Anticipated Full Council Date: May 21, 2007

Commissioner Signature \_\_\_\_\_

Chief Procurement Officer Signature: N/A

CAPTION

AN ORDINANCE BY  
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AN ORDINANCE TO REPEAL SECTION 154-73, CHAPTER 154, ARTICLE III, DIVISION 1, WATER, OF THE CITY OF ATLANTA CODE OF ORDINANCES; AND TO ESTABLISH COMPREHENSIVE WATER USE RESTRICTIONS, AUTHORIZE THE MAYOR OR HER DESIGNEE TO SET OUTDOOR WATER USE RESTRICTIONS BASED UPON DROUGHT RESPONSE LEVELS DECLARED BY THE DIRECTOR OF THE ENVIRONMENTAL PROTECTION DIVISION, DEPARTMENT OF NATURAL RESOURCES, STATE OF GEORGIA; TO PROVIDE FOR ADDITIONAL WATER USE RESTRICTIONS DURING EMERGENCY CONDITIONS, REPAIRS AND WATER SHORTAGES, TO ESTABLISH PROVISIONS FOR ADEQUATE ENFORCEMENT OF OUTDOOR WATER USE SCHEDULES AND OTHER WATER USE RESTRICTIONS DURING EMERGENCY CONDITIONS, REPAIRS AND WATER SHORTAGES; AND FOR OTHER PURPOSES.

FINANCIAL IMPACT (if any):

Mayor's Staff Only

Received by CPO: \_\_\_\_\_  
(date)

Received by LC from CPO: \_\_\_\_\_  
(date)

Received by Mayor's Office: 5/4/07 (signature) Reviewed by: (signature)  
(date) (date)

Submitted to Council: 5/7/07 (date)